



# PROPOSED RULE MAKING

**CR-102 (June 2004)**

(Implements RCW 34.05.320)

Do NOT use for expedited rule making

Agency: Office of the Secretary of State, Elections Division

- ☒ Preproposal Statement of Inquiry was filed as WSR 06-15-122 ; or ☒ Original Notice  
☐ Expedited Rule Making--Proposed notice was filed as WSR \_\_\_\_\_ ; or ☐ Supplemental Notice to WSR \_\_\_\_\_  
☐ Proposal is exempt under RCW 34.05.310(4). ☐ Continuance of WSR \_\_\_\_\_

Title of rule and other identifying information: (Describe Subject)

Initiatives and referenda, ballot procedures, other miscellaneous provisions.

**Hearing location:**

Office of the Secretary of State  
Elections Division  
520 Union Ave. S.E.  
Olympia, WA  
(360) 902-4180

Date: October 11, 2006 at 1:30 pm

**Submit written comments to:**

Sheryl Moss  
P.O. Box 40229  
Olympia, WA 98504-0229  
[shmoss@secstate.wa.gov](mailto:shmoss@secstate.wa.gov)  
fax: (360) 902-4146  
by: October 11, 2006

**Assistance for persons with disabilities:** Contact

Sheryl Moss by October 10, 2006

TTY (800) 422-8683

**Date of intended adoption:** November 9, 2006  
(Note: This is NOT the effective date)

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:**

The rules for electronic filings are clarified to state that such filings are conditional until any required original documents or filing fees are received. Candidates may not use symbols as part of the name when filing for office. The instructions required to be printed on a ballot are expanded. Federal write-in ballots must be accepted. Ballot drop boxes must either be emptied or sealed at 8:00 pm on election day to prevent additional ballots from being deposited after the 8:00 pm deadline. The specific prohibition on get-out-the-vote campaigns at poll sites is eliminated since County Auditors' Offices now serve as poll sites and this prohibition conflicts with their voter registration duties. Provisional ballots may be voted on a direct recording electronic voting device if the system has been certified for provisional voting by the Secretary of State and the County Auditor has submitted approved procedures. Ballots may be duplicated onto either blank ballots or an electronic image of a ballot. The process for referring questionable ballots to the canvassing board is streamlined. The process for a voter to correct a missing or mismatched signature on an absentee or provisional ballot envelope is revised to confirm that the registered voter voted and returned the ballot. County Auditors' Offices using digital scan equipment must print out and sign a log when resolving ballots so there is a record of duplications. The process of screening the list of registered voters for ineligible felons is revised pursuant to the ruling of the King County Superior Court in *Madison v. State*, No. 04-2-33414-4 to screen against the list of felons in the custody or under the supervision of the state Department of Corrections. The prohibition on using the list of registered voters for commercial purposes is clarified. The affidavit to file an initiative or referendum is revised to reflect that the sponsor is a registered voter and is submitting the proposed measure for filing. The process for submitting initiative and referendum petitions is clarified.

**Statutory authority for adoption:** RCW 29A.04.611**Statute being implemented:** RCW 29A.04.255, 29A.24.060, 29A.36.111, 29A.48.040, 29A.44.207, 29A.60.125, 29A.60.050, 29A.60.165, 29A.08.520, 29A.08.720, 29A.72.010, 29A.72.160.**Is rule necessary because of a:**

Federal Law?  
Federal Court Decision?  
State Court Decision?

☒ Yes ☐ No  
☐ Yes ☐ No  
☒ Yes ☐ No

If yes, CITATION:

42 U.S.C. 1973ff.

*Madison v. State*, King County

Superior Court No. 04-2-33414-4.

**DATE**

9/5/06

**NAME** Steve Excell**SIGNATURE****TITLE** Assistant Secretary of State**CODE REVISER USE ONLY**CODE REVISER'S OFFICE  
STATE OF WASHINGTON  
FILED

SEP 5 2006

TIME

WSR

310

06-18-088

AM

PM

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization)  
Office of the Secretary of State, Elections Division

- ☐ Private  
☐ Public  
☒ Governmental

Name of agency personnel responsible for:

Name	Office Location	Phone
Drafting..... Katie Blinn	P.O. Box 40220, Olympia, WA 98504	(360) 902-4168
Implementation.... Katie Blinn	P.O. Box 40220, Olympia, WA 98504	(360) 902-4168
Enforcement..... Katie Blinn	P.O. Box 40220, Olympia, WA 98504	(360) 902-4168

Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

☒ No. Explain why no statement was prepared.

Is a cost-benefit analysis required under RCW 34.05.328?

☐ Yes. A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

phone ( ) \_\_\_\_\_

fax ( ) \_\_\_\_\_

e-mail \_\_\_\_\_

☒ No: Please explain:

AMENDATORY SECTION (Amending WSR 04-15-089, filed 7/16/04, effective 8/16/04)

WAC 434-208-060 Electronic filings (~~(of electronic facsimile documents)~~). In addition to those documents specified by RCW 29A.04.255, the secretary of state or the county auditor shall accept and file in his or her office electronic (~~(facsimile)~~) transmissions of the following documents:

(1) The text of any proposed initiative, referendum, or recall measure and any accompanying documents required by law;

(2) Any minor party or independent candidate filing material except nominating petitions;

(3) Lists of presidential electors selected by political parties or independent candidates;

(4) Voted ballots, provided the voter agrees to waive the secrecy of his or her ballot;

(5) Resolutions from cities, towns, and other districts calling for a special election;

(6) Filling of vacancies on the ticket by a major political party;

(7) Voter registration form.

AMENDATORY SECTION (Amending WSR 98-08-010, filed 3/18/98, effective 3/18/98)

WAC 434-208-070 Electronic (~~(facsimile)~~) filings not accepted. (~~(No filing by electronic facsimile shall be accepted where a filing fee must accompany the filing unless the person making the filing has also provided for that fee to be paid in conjunction with the electronic facsimile filing.)~~) (1) When a filing fee is required, acceptance of an electronic filing is conditional until the fee is received.

(2) If the original document must be signed, acceptance of an electronic filing is conditional until receipt of the original document. Except for absentee ballots, the original document must be received no later than seven calendar days after receipt of the electronic filing. If a voted ballot is submitted electronically, the ballot and the envelope bearing the original signature of the voter must be received on or before the date on which the election is certified pursuant to RCW 29A.60.190.

(3) No initiative, referendum, or recall petition signatures may be filed (~~(by electronic facsimile)~~) electronically.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 434-208-080

Electronic facsimile filings  
followed by original document.

WAC 434-208-090

Rejection of electronic facsimile  
filings.

AMENDATORY SECTION (Amending WSR 02-09-007, filed 4/4/02, effective 4/4/02)

WAC 434-215-050    Use of title ((or)), rank, or symbols prohibited. No person when filing for office shall be permitted to use any title, rank, or symbol instead of, or in conjunction with, his or her name, except as may be provided by law or administrative rule.

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

**WAC 434-250-020 Definitions.** As used in this chapter:

(1) "Absentee ballot" includes:

(a) An ongoing absentee ballot issued to a voter who has requested status as an ongoing absentee voter, as authorized by RCW 29A.40.040;

(b) A single absentee ballot issued to a voter who has requested an absentee ballot for a single election, as authorized by RCW 29A.40.020;

(c) A special absentee ballot issued to a voter who has indicated that he or she will be unable to vote and return a regular absentee ballot timely, as authorized by RCW 29A.40.050; and

(d) A hospital absentee ballot issued to a voter confined to a health care facility on the day of a primary or election, as authorized by RCW 29A.40.080.

(2) "Final processing" means the reading of ballots by an electronic vote tallying system for the purpose of producing returns of votes cast, but does not include tabulation.

(3) "Initial processing" means all steps taken to prepare absentee ballots for tabulation, except for the reading of ballots by an electronic vote tallying system for the purpose of producing returns of votes cast. Initial processing includes, but is not limited to: Verification of the signature and postmark on the return envelope((7)); removal of the security envelope from the return envelope; removal of the ballot from the security envelope; manual inspection for damage, write-in votes, and incorrect or incomplete marks; duplication of damaged and write-in ballots; scanning and resolution of ballots on a digital scan voting system; and other preparation of ballots for final processing.

(4) "Mail ballot" means a ballot used in an election conducted by mail, as authorized by RCW 29A.48.010, 29A.48.020, or 29A.48.030. Unless specified otherwise, mail ballots must be prepared and processed in the same manner as absentee ballots.

(5) "Tabulation" means the production of returns of votes cast for candidates or ballot measures in a form that can be read by a person, whether as precinct totals, partial cumulative totals, or final cumulative totals.



AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

**WAC 434-250-040 Instructions to voters.** (1) In addition to the instructions required by chapters 29A.36 and 29A.40 RCW, instructions for properly voting and returning an absentee ballot must also include:

(a) How to correct a ballot by crossing out the incorrect vote and voting the correct choice;

(b) Notice that, unless specifically allowed by law, more than one vote for an office or ballot measure will be an overvote and no votes for that office or ballot measure will be counted;

(c) How to complete and sign the affidavit on the return envelope;

((+c+)) (d) How to make a mark, witnessed by two other people, if unable to sign the affidavit;

((+d+)) (e) How to place the ballot in the security envelope and place the security envelope in the return envelope;

((+e+)) (f) How to obtain a replacement ballot if the original ballot is destroyed, spoiled, or lost;

((+f+)) (g) Notice that postage is required, if applicable; and

((+g+)) (h) Notice that, in order for the ballot to be counted, it must be either postmarked or deposited at a designated place no later than election day, and providing the location, dates, and times for depositing the ballot as an alternative to mailing the ballot.

(2) Instructions that accompany a special absentee ballot must also include:

(a) A listing of all offices and measures that will appear upon the ballot, together with a listing of all persons who have filed for office or who have indicated their intention to file for office; and

(b) Notice that the voter may request and subsequently vote a regular absentee ballot, and that if the regular absentee ballot is received by the county auditor prior to certification of the election, it will be tabulated and the special absentee ballot will be voided.

AMENDATORY SECTION (Amending WSR 06-14-050, filed 6/28/06, effective 7/29/06)

**WAC 434-250-060 Service and overseas voters**((--Material and postage)). (1) Pursuant to RCW 29A.40.150, the secretary of state must furnish envelopes and instructions for overseas and service voters. For purposes of RCW 29A.40.150, service voters do not include participants of the address confidentiality program established in chapter 40.24 RCW. All absentee ballots to voters

AMENDATORY SECTION (Amending WSR 06-14-047, filed 6/28/06, effective 7/29/06)

**WAC 434-250-100 Depositing of ballots.** Ballots may be deposited in the auditor's office during normal business hours prior to the day of the election, and from 7:00 a.m. to 8:00 p.m. on the day of the election. Places of deposit may be staffed or unstaffed.

(1) (a) Staffed sites must be staffed by at least two people. Deposit site staff may be employees of the county auditor's office or persons appointed by the auditor. If two or more deposit site staff are persons appointed by the county auditor, the appointees shall be representatives of different major political parties whenever possible. Deposit site staff shall subscribe to an oath regarding the discharge of the duties.

(b) Staffed deposit sites must be open from 7:00 a.m. until 8:00 p.m. on the day of the election and may be open prior to the election on dates and times established by the county auditor. Staffed deposit sites must have a secure ballot box that is constructed in a manner to allow return envelopes, once deposited, to only be removed by the county auditor or by the deposit site staff. If a ballot envelope is returned after 8:00 p.m. on election day, deposit site staff must note the time and place of deposit on the ballot envelope, and such ballots must be referred to the canvassing board for consideration of whether special circumstances warrant consideration, as documented by the deposit site staff.

(c) A staffed deposit site that only receives ballots is not considered a polling place. A staffed deposit site that both receives and issues ballots is considered a polling place.

(2) Unstaffed sites may be used if the ballot drop box is either:

(a) Constructed and secured according to the same requirements as United States Postal Service postal drop boxes; or

(b) Secured and located indoors.

(3) Ballot boxes must be locked and sealed at all times, with seal logs that document each time the box is opened, by whom, and the number of ballots removed. From eighteen days prior to election day until 8:00 p.m. on election day, two people who are either employees of or appointed by the county auditor must empty each ballot drop box with sufficient frequency to prevent damage or unauthorized access to the ballots. Ballots must be placed into sealed transport carriers and returned to the county auditor's office or another designated location. At exactly 8:00 p.m. on election day, ballot drop boxes must be emptied ((at exactly 8:00 p.m. to ensure that all ballots meet the 8:00 p.m. delivery deadline)) or sealed to prevent the deposit of additional ballots.



AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

**WAC 434-253-010 Polling place--Activities prohibited.** The county auditor shall ensure that all precinct election officers receive instruction regarding activities that are not permitted within the polling place, including electioneering, circulation of campaign material, soliciting petition signatures, or impeding the voting process(~~(, or get-out-the-vote campaigns)~~). Whenever it is necessary to maintain order within the polling place and the surrounding environs, the inspector may, if circumstances warrant and if the means to do so are available, contact the county auditor, who shall determine the corrective action required. Such corrective action may include contacting a law enforcement agency for ~~((their))~~ assistance.

AMENDATORY SECTION (Amending WSR 06-02-028, filed 12/28/05, effective 1/28/06)

**WAC 434-253-045 Provisional ballots--Required information.** A provisional ballot may ~~((not))~~ only be voted on a direct recording electronic voting device if the voting system has been certified by the secretary of state for provisional voting and the county auditor has submitted approved procedures to the secretary of state. At a minimum, the following information is required to be printed on the outer provisional ballot envelope:

- (1) Name of voter.
- (2) Voter's registered address both present and former if applicable.
- (3) Voter's date of birth.
- (4) Reason for the provisional ballot.
- (5) Polling place and precinct number, if applicable, at which voter voted.
- (6) Sufficient space to list disposition of the ballot after review by the county auditor.
- (7) The following oath with a place for the voter to sign and date:

\_\_\_\_\_  
I do solemnly swear or affirm under penalty of perjury  
that:  
I am a legal resident of the state of Washington;  
I am entitled to vote in this election;  
I have not already voted in this election;

It is illegal to vote if I am not a United States citizen;

It is illegal to vote if I have been convicted of a felony and have not had my voting rights restored;

It is illegal to cast a ballot or sign an absentee envelope on behalf of another voter, except as otherwise provided by law; and

Attempting to vote when not entitled, attempting to vote more than once, or falsely signing this oath is a felony punishable by a maximum imprisonment of five years, a maximum fine of \$10,000, or both.

Signature \_\_\_\_\_ Date \_\_\_\_\_

AMENDATORY SECTION (Amending WSR 06-11-042, filed 5/10/06, effective 6/10/06)

**WAC 434-261-005 Definitions.** (1) "Manual inspection" is the process of inspecting each voter response position on each voted ballot. Inspection is performed on an absentee ballot as part of the initial processing, and on a poll ballot after breaking the seals and opening the ballot containers from the precincts or, in the case of precinct counting systems, prior to the certification of the election;

(2) "Duplicating ballots" is the process of making a true copy of valid votes from ballots that may not be properly counted by the vote tallying system. Ballots may be duplicated on blank ballots or by making changes on an electronic ((~~facsimile~~)) image of the ballot. The original ballot may not be altered in any way;

(3) "Readable ballot" is any ballot that the certified vote tallying system can accept and read as the voter intended without alteration, and that meets the standards of the county canvassing board subject to the provisions contained in this title;

(4) "Unreadable ballot" is any ballot that cannot be read by the vote tallying system as the voter intended without alteration. Unreadable ballots may include, but not be limited to, ballots with damage, write-in votes, incorrect or incomplete marks, and questions of vote intent. Unreadable ballots may subsequently be counted as provided by these administrative rules;

(5) "Valid signature" is the signature of a registered voter eligible to vote in the election as verified against the voter registration files. On an absentee ballot envelope, a mark with two witnesses is a valid signature.

AMENDATORY SECTION (Amending WSR 05-17-145, filed 8/19/05, effective 9/19/05)

**WAC 434-261-120 Referral of questionable ballots to canvassing board.** Whenever a precinct election officer ((~~in a precinct where ballots are being tabulated,~~)) or counting center personnel ((~~in a county where ballots are being centrally tabulated,~~)) has a question about the validity of a ballot or the votes contained on the ballot that they are unable to resolve, the ballot shall be placed in a special ((~~envelope~~)) container marked "for canvassing board." ((~~The following information must be provided on the outside of the envelope:~~

(1) ~~Identification of the precinct from which the ballot~~

in these categories ((will)) must be sent postage-free, pursuant to the provisions of federal law, and the return envelopes must be marked as to indicate that they may be returned free of postage.

(2) A county auditor must accept a federal write-in absentee ballot, as authorized by 42 U.S.C. Sec. 1973ff, if sufficient information is provided to allow the county auditor to process the ballot.

originated;

(2)) The facts giving rise to the question of validity (~~((including, if applicable, the office or issue on the ballot which is affected by the question;~~

(3) ~~An identification number by which the envelope containing the ballot may be tracked))~~ must be noted.

If the question arises at a polling place, the precinct inspector shall (~~((annotate))~~) note the ballot on the ballot accountability ((sheet)) form in a manner similar to recording other irregularly voted ballots(~~(, shall seal the envelope))~~) and shall transfer it to the elections office in (~~((the special envelope for irregularly voted ballots))~~) accordance with WAC 434-253-170.

If the question arises in the counting center, the counting center supervisor shall record the ballot on an irregularly voted ballot log sheet.

Ballots being held for determination of validity or voter's intent shall be provided the same security as regular voted ballots and shall be kept in a secure area when not being processed. (~~((As long as they are in the sealed envelope it is not necessary to seal them in other containers within the counting center provided they are otherwise safeguarded. Once the issue of validity has been determined, the ballots must be tabulated, if applicable, stored, and retained the same as regular voted ballots.~~

~~When the determination of validity is made, the disposition of the ballot shall be entered on the envelope and the ballot accountability sheet or the irregularly voted ballot log sheet.))~~

AMENDATORY SECTION (Amending WSR 06-14-050, filed 6/28/06, effective 7/29/06)

**WAC 434-261-050 Unsigned oath or mismatched signatures. (1)**  
If a voter neglects to sign the oath on an absentee or provisional ballot envelope, signs the oath with a mark and fails to have two witnesses attest to the signature, or signs the ballot envelope but the signature on the envelope does not match the signature on the voter registration ((file)) record, the auditor shall notify the voter ((pursuant to RCW 29A.60.165)) by first class mail of the correct procedures for curing the signature. If the ballot is received during the last three business days before the final meeting of the canvassing board, or the voter has been notified by first class mail and has not responded by the last three business days before the final meeting of the canvassing board, the auditor must attempt to notify the voter by telephone using information in the voter registration record.

(2) If the voter neglects to sign the oath on an absentee or provisional ballot envelope, or signs the oath with a mark and fails to have two witnesses attest to the signature, the voter must either:

(a) Appear in person and sign the affidavit no later than the day before certification of the primary or election; or

(b) Sign a copy of the affidavit provided by the auditor, or mark the affidavit in front of two witnesses, and return it to the auditor no later than the day before certification of the primary or election.

(3) If the signature on the oath of an absentee or provisional ballot envelope does not match the signature on the voter registration record, the voter must either:

(a) Appear in person and sign a new registration form no later than the day before certification of the primary or election. The updated signature provided on the new registration form becomes the signature on the voter registration record for the current election and future elections; or

(b) Sign a copy of the affidavit provided by the auditor, and provide a photocopy of a valid government or tribal identification that includes the voter's current signature. The signature on the affidavit must match the signature on the identification, and both of those signatures must match the signature on the ballot envelope. The voter must return the signed affidavit and identification to the auditor no later than the day before certification of the primary or election. The county auditor may also send the voter a new registration form to update the signature on the voter registration record for future elections; or

(c) Sign a copy of the affidavit provided by the auditor in front of two witnesses who attest to the signature. The signature



on the affidavit must match the signature on the ballot envelope. The voter must return the signed affidavit to the auditor no later than the day before certification of the primary or election. The county auditor may also send the voter a new registration form to update the signature on the voter registration record for future elections.

(4) If the signature on an absentee or provisional ballot envelope does not match the signature on the registration record because the name is different, the ballot may be counted as long as the handwriting is clearly the same. The auditor shall send the voter a change-of-name form under RCW 29A.08.440 and direct the voter to complete the form. If the signature on an absentee or provisional ballot envelope does not match the signature on the registration record because the voter used initials or a common nickname, the ballot may be counted as long as the surname and handwriting are clearly the same.

(5) A voter may not cure a missing or mismatched signature for purposes of counting the ballot in a recount.

(6) A record must be kept of all ballots with missing and mismatched signatures. The record must contain the date on which the voter was contacted or the notice was mailed, as well as the date on which the voter signed the envelope, a copy of the envelope, a new registration form, or a change-of-name form. That record is a public record under chapter 42.56 RCW and may be disclosed to interested parties on written request.

AMENDATORY SECTION (Amending WSR 06-11-042, filed 5/10/06, effective 6/10/06)

WAC 434-261-102 Resolving ballots ((tabulated)) on digital scan vote tallying systems. In counties tabulating ballots on a digital scan vote tallying system, two staff designated by the auditor's office must resolve ballots identified as requiring resolution. A log of the resolutions must be printed and signed by the two staff.

AMENDATORY SECTION (Amending WSR 05-24-039, filed 11/30/05, effective 12/31/05)

WAC 434-324-106 Felony conviction--Secretary's quarterly comparisons ~~((and pending cancellation notifications))~~. (1) Once a quarter, the secretary must perform comparisons with the ~~((Washington state patrol, the office of the administrator for the courts, and other appropriate state agencies))~~ department of corrections, as authorized in RCW 29A.08.520, to search for registration records of felons ~~((The quarterly comparison must be performed prior to the first extraction or pull of absentee ballots for a primary, special, or general election))~~ who are under the legal custody of the department of corrections due to an adult felony conviction. The secretary must create a list of ~~((matches by confirming that))~~ felon voters by matching the first name, last name, ((and)) date of birth ((match)), and other identifying information.

(2) ~~((The list of matches must be compared to information provided by the office of the administrator for the courts and the clemency board to identify felons who have received certificates of discharge or gubernatorial pardons for all felony convictions.~~

~~((3) The secretary must not cancel the voter registration record of a voter who has received a certificate of discharge or gubernatorial pardon for all felony convictions. The secretary must flag the voter registration record to prevent future cancellation based on these previous felony convictions.~~

~~((4) If there is no record of a certificate of discharge or gubernatorial pardon for each felony conviction))~~ For each felon voter, the secretary must change the voter's registration status to "pending cancellation." This change of status must be entered prior to the first extraction or pull of absentee or mail ballots. The official statewide voter registration data base must automatically notify the county election management system of the change. Voters with pending cancellation status must not be included in ~~((the))~~ a poll book ~~((and must not receive))~~ or be mailed an absentee or mail ballot.

~~((+5))~~ (3) The secretary must mail a notification letter to each felon whose status is pending cancellation. ~~((In addition to sending a copy of the notification letter to the auditor, the secretary must also send notification of the voter's pending cancellation status to the auditor through the election management system.))~~ The notification letter must be sent to the felon's last known registration mailing address indicating that his or her voter registration is about to be canceled. The ~~((form))~~ letter must contain language notifying the felon that ~~((if the pending cancellation status is in error, the felon))~~ he or she may contact the auditor's office to ~~((reconcile the error and))~~ correct the

information or request a hearing if the felon status is not correct or the right to vote has been restored. The letter must also inform the felon that he or she may request a provisional ballot for any pending elections. ((As outlined in RCW 29A.08.520, the form must also provide information on how the right to vote may be restored, as well as how to register to vote after the right to vote has been restored.)) The notification letter must contain substantially the following language:

Dear .....

According to the Washington state Constitution, a person who has been convicted of a felony is disqualified from voting until the right has been restored. State law requires that the right be restored only after all conditions of all felony sentences have been fulfilled ~~((as outlined in the last paragraph of this letter))~~ or by a certificate of restoration issued by the governor.

Based on name ~~((and))~~, date of birth, and other identifying information maintained in state voter registration records and ~~((felony conviction))~~ department of corrections records, you have been found ineligible to vote due to a felony conviction. The felony conviction record information includes:

Felon's name  
Felon's date of birth  
County of conviction  
~~((Date of conviction))~~  
Case/cause number

Your voter registration is pending cancellation. If you would like to dispute this finding, you have ~~((thirty))~~ 30 days from the postmark date on the envelope to provide documentation that this is incorrect or request a hearing ~~((by contacting))~~.  
You must contact:

County auditor  
County auditor's address  
County auditor's phone number  
~~((County auditor's e-mail address))~~

You may also request a provisional ballot for any election scheduled to occur prior to the resolution of your registration status.

If you do not contact the county elections department within 30 days to dispute ~~((this))~~ the finding ~~((within thirty days))~~, your voter registration will be canceled.

Voting before the ~~((rights are))~~ right is restored is a class C felony ~~((RCW 29A.84.660))~~. The right to vote may be restored by proof of one of the following for each felony conviction:

1. A certificate of discharge, issued by the sentencing court ~~((RCW 9.94A.637))~~;
2. A court order restoring civil right, issued by the sentencing court ~~((RCW 9.92.066))~~;
3. A final ~~((order of))~~ discharge and restoration of civil rights, issued by the indeterminate sentence review board

((RCW 9.96.050)); or

4. A certificate of restoration, issued by the ((governor  
(RCW 9.96.020)) clemency and pardons board; or

5. A pardon, issued by the governor.

Further information about how to get the right to vote restored  
m a y b e f o u n d a t

((www.secstate.wa.gov/elections/restoring.aspx))

www.secstate.wa.gov/elections/faq.aspx.

Sincerely,

((.....)) Elections Division

Office of the Secretary of State

The secretary must provide an explanation of the requirements for restoring the right to vote. The secretary must send to each auditor the voter registration and conviction information for each matched felon registered in that county.

(4) If the felon fails to contact the auditor within thirty days, the felon's voter registration must be canceled. If an election in which the felon would otherwise be eligible to vote is scheduled to occur during the thirty days, the felon must be allowed to vote a provisional ballot.

(5) The felon's eligibility status may be resolved and the pending cancellation status reversed without scheduling a hearing if the felon provides satisfactory documentation that the felon's civil rights have been restored, the conviction is not a felony, the person convicted is not the registered voter, or the felon is otherwise eligible to vote. The auditor must notify the voter, retain a scanned copy of all documentation provided, and notify the secretary. The secretary must flag the voter registration record to prevent future cancellation based on the same felony conviction.

(6) If the felon requests a hearing, the auditor must schedule a public hearing to provide the felon an opportunity to dispute the finding. In scheduling the hearing, the auditor may take into account whether an election in which the felon would otherwise be eligible to vote is scheduled. The notice must be mailed to the felon's last known registration mailing address and must be postmarked at least seven calendar days prior to the hearing date. Notice of the hearing must also be provided to the prosecuting attorney.

(7) The auditor must provide the prosecuting attorney a copy of all relevant registration and felony conviction information. The prosecuting attorney must obtain documentation, such as a copy of the judgment and sentence, sufficient to prove the felony conviction by clear and convincing evidence. It is not necessary that the copy of the document be certified.

(8) If the prosecuting attorney is unable to obtain sufficient documentation to ascertain the felon's voting eligibility in time to hold a hearing prior to certification of an election in which the felon would otherwise be eligible to vote, the prosecuting attorney must request that the auditor dismiss the current cancellation proceedings. The auditor must reverse the voter's pending cancellation status, cancel the hearing, and notify the voter. A provisional ballot voted in the pending election must be



counted if otherwise valid. The prosecuting attorney must continue to research the felon's voting eligibility. If the prosecuting attorney is unable to obtain sufficient documentation to ascertain the felon's voting eligibility prior to the next election in which the felon would otherwise be eligible to vote, the prosecuting attorney must notify the auditor. The auditor must notify the secretary, who must flag the voter registration record to prevent future cancellation based on the same felony conviction.

(9) A hearing to determine voting eligibility is an open public hearing pursuant to chapter 42.30 RCW. If the hearing occurs within thirty days before, or during the certification period of, an election in which the felon would otherwise be eligible to vote, the hearing must be conducted by the county canvassing board. If the hearing occurs at any other time, the county auditor conducts the hearing. Before a final determination is made that the felon is ineligible to vote, the prosecuting attorney must show by clear and convincing evidence that the voter is ineligible to vote due to a felony conviction. The felon must be provided a reasonable opportunity to respond. The hearing may be continued to a later date if continuance is likely to result in additional information regarding the felon's voting eligibility. If the felon is determined to be ineligible to vote due to felony conviction and lack of rights restoration, the voter registration must be canceled. If the voter is determined to be eligible to vote, the voter's pending cancellation status must be reversed and the secretary must flag the voter registration record to prevent future cancellation based on the same felony convictions. The felon must be notified of the outcome of the hearing and the final determination is subject to judicial review pursuant to chapter 34.05 RCW.

(10) If the felon's voter registration is canceled after the felon fails to contact the auditor within the thirty day period, the felon may contact the auditor at a later date to request a hearing to dispute the cancellation. The auditor must schedule a hearing in substantially the same manner as provided in subsections (6) through (9) of this section.

AMENDATORY SECTION (Amending WSR 06-11-041, filed 5/10/06, effective 6/10/06)

WAC 434-324-130 (~~Contents of~~) Lists of registered voters for the public. (1) Pursuant to the provisions of RCW 29A.08.710, 29A.08.720 and 29A.08.740, the auditor or secretary must furnish to any person, upon request, the current list of registered voters at actual reproduction cost. The auditor or secretary may also provide a list of canceled voters. Auditors may combine these lists. The auditor or secretary may, upon request, select names and addresses from the voter registration records on the basis of the precinct code, the district code, date of registration, or voting history of each individual voter in that portion of the voter registration file. Such lists (~~may~~) must contain the information prescribed in RCW 29A.08.710 for each registered voter and may be in the form of computer printouts, microfilm duplicates, or electronic media copies of such information.

(2) Such voter registration lists (~~must be used only for political~~) may not be used for commercial purposes (~~commercial use of this information is punishable as provided in RCW 29A.08.740~~). The person making the request must be provided a copy of RCW 29A.08.740.



AMENDATORY SECTION (Amending WSR 05-12-116, filed 5/31/05, effective 7/1/05)

WAC 434-379-005 Filing of an initiative or referendum--Fee--  
Required documents. A person desiring to file with the secretary of state a petition to enact a proposed measure to the legislature or submit a proposed initiative measure to the people, or order that a referendum of all or part of any act, bill, or law, passed by the legislature be submitted to the people, may do so by filing the following documents:

(1) A legible copy of the measure proposed, or the act or part of such act on which a referendum is desired;

(2) A notarized affidavit that the sponsor is a legal voter and is submitting the proposed measure for filing;

(3) A filing fee of five dollars for each measure submitted.  
The proposed measure is not considered filed with the secretary of state until all documents and fees are filed, including any original versions required.

AMENDATORY SECTION (Amending WSR 06-11-043, filed 5/10/06, effective 6/10/06)

WAC 434-379-008 ~~((Signing a petition in error:))~~ Signed petitions. ~~((Before the deadline for filing petitions has passed, a person who believes he or she has signed an initiative or referenda petition in error may submit a letter to the secretary stating that he or she did not intend to sign the petition. This letter must be included))~~ (1) To allow for sufficient personnel to accept and process signed petitions, the sponsor of an initiative or referendum must make an appointment with the elections division for submission of the signed petitions to the secretary. Petitions submitted prior to or at the appointment that clearly bear insufficient signatures must be rejected pursuant to RCW 29A.72.160. If the petitions are accepted and filed, additional petitions may be submitted until the applicable deadline established by RCW 29A.72.160.

(2) Signatures on initiative and referendum petitions submitted to the secretary may not be removed from the petition or eliminated from the signature count. Letters submitted to the secretary requesting the removal of one's own signature from a petition must be retained by the secretary as part of the public record for the petition. ~~((The secretary must not physically remove the person's name from the petition or reduce the total~~

~~number of signatures submitted.))~~